

Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

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AUG 11 2005

Federal Communications Commission  
Office of Secretary

In the Matter of

Amendment of §73.202(b),	)	
Table of Allotments	)	MB Docket No. 02-266
FM Broadcast Stations	)	RM-10557
(Chillicothe, Dublin, Hillsboro and	)	
Marion, Ohio)	)	

To: Marlene Dortch, Secretary  
Attn: Media Bureau

**OPPOSITION TO SUPPLEMENT**

The Committee for Competitive Columbus Radio (the "Committee"), by its attorney, hereby respectfully opposes the Supplement filed in this proceeding by Citicasters Licenses, L.P. and Clear Channel Broadcasting Licenses, Inc. (hereinafter, collectively, "Clear Channel"), on August 2, 2005. In opposition thereto, it is alleged:

1. In its Supplement, Clear Channel advises the FCC that it has filed an application for Commission consent to the sale of Station WQIO(FM), Mt. Vernon, Ohio to BAS Broadcasting, Inc. (File No. BALH-20050726ACU). Clear Channel admits that there are presently 44 stations in the Columbus, Ohio Market (the "Market"), as defined by BIA. Clear Channel also admits that after it divests Station WQIO, it will own 4 FM stations in the market (WFKX(FM), WLZT(FM), WNIC(FM), and WCOL(FM)) and two AM stations (WTPG-AM and WTNB-AM) that are attributable to Clear Channel in the Columbus Arbitron Metro Market. Clear Channel also states, correctly, that with the divestiture of Station WQIO, it will not exceed its "quota" in the Columbus Market

because, in a 44-station market, a party may have cognizable interest in up to 7 commercial radio stations, not more than four of which in the same service (AM or FM).

2. Clear Channel goes on to report that it has filed an application (File No. BPH-20050726ALM), to relocate Station WMRN-FM from Marion, Ohio to Dublin, Ohio, in the Columbus Metro Market.<sup>1</sup> It argues that, as a result of the allocation of Station WMRN to that market, the market will become a 45-station market in which, under the Commission's Multiple Ownership Rules, a party may have a cognizable interest in up to 8 commercial full-power radio stations, not more than 5 in the same service (AM or FM). Thus, Clear Channel seeks to manipulate the size of the Columbus Market; it seeks to use its own application to move an additional station into the Market to make the Market a 45-station market, instead of a 44-station market. This is where Clear Channel goes wrong. The Commission will not permit a party to enlarge a market so that it can acquire additional stations in that market, unless the enlarged market definition has been effect for at least two years.

3. In a *Report and Order*, adopting the current market definitions, the FCC said as follows:

"We believe, moreover, that we can establish safeguards to deter parties from attempting to manipulate Arbitron market definitions for purposes of circumventing the local radio ownership rule. Specifically, we will not allow a party to receive the benefit of a change in Arbitron Metro boundaries unless that change has been in place for at least two years. This safeguard includes both enlarging the Metro (to make a market larger) and shrinking the Metro (to split a party's non-compliant station holdings into separate markets). Similarly, a station combination that does not comply with the rule

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<sup>1</sup> On August 10, 2005, the Committee filed an Infomal Objection to Clear Channel's application to change the community of license of Station WMFN-FM from Marion, Ohio to Dublin, Ohio.

cannot rely on a change in Arbitron Metro definitions to show compliance and thereby avoid the transfer restrictions outlined in the grandfathering section below, unless that change has been in effect for two years. We also will not allow a party to receive the benefit of the inclusion of a radio station as “home” to a Metro unless such station’s community of license is located within the Metro or such station has been considered home to that Metro for at least two years. We believe these safeguards will ensure that changes in Arbitron Metro boundaries and home market designations will be made to reflect actual market conditions and not to circumvent the local radio ownership rule.”

*Definition of Radio Markets*, 18 FCC Rcd. 13, 620 (2003) at para. 278 (footnotes omitted).

4. Thus, the FCC made it clear that in order to take advantage of an enlarged market definition, a party must show that the enlarged definition has been in existence for at least two years. Here, Columbus will not change from the 44-station market to a 45-station market unless and until Clear Channel’s application to move Station WMRN-FM from Marion, Ohio to Dublin, Ohio is granted. That has not even occurred, as yet. Therefore, Columbus is not yet a 45-station market and, even if it becomes a 45-station market, it will not have qualified as a 45-station market for the requisite two-year period. *WKML License Limited Partnership*, DA 05-1710 (Audio Division, 2005), reported at 2005 WL 1498312.

5. For these reasons, the Columbus Market should be treated as a 44-station market. In such a market, a single entity may not have attributable interests in more than 4 FM stations. Even with the divestiture of Station WQIO, Clear Channel will continue to have attributable interests in 4 FM stations in the Market. Therefore, it may not require an attributable interest in an additional FM station.

6. Thus, Clear Channel has failed to show how the relocation of Station WMRN from Marion, Ohio to Dublin, Ohio can be accomplished, without violating the Multiple Ownership Rules. Its latest Supplement avails it absolutely nothing.

7. For these reasons, the Commission's staff is simply being asked to waste its time and scarce resources in a futile proceeding to reallocate Station WMRN-FM from Marion, Ohio to Dublin, Ohio – a relocation which cannot be accomplished without violating the Rules. Clear Channel still has not provided any feasible basis for compliance.

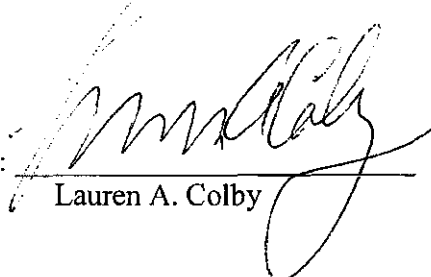
August 11, 2005

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Respectfully submitted,

THE COMMITTEE FOR COMPETITIVE  
COLUMBUS RADIO

By:

  
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Lauren A. Colby

## CERTIFICATE OF SERVICE

I, Kelli A. Muskett, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 11 day of August, 2005, to the offices of the following:

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